

Michigan Civil Service Commission

Regulation ~~2.06~~3.03

Subject: Conducting Employee Probationary Ratings		
SPDOC No.: 16-06 <u>17-XX</u>	Effective Date: January 1, 201 8 <u>7</u>	Replaces: Reg. 2.06 (SPDOC 07-14, October 7, 2007 <u>16-06, December 15, 2016</u>)

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1. Purpose

This regulation establishes procedures ~~approved by the director~~ to conduct ~~employee~~probationary ratings.

2. CSC Rule References

~~2-3~~ *Performance Ratings*

~~2-6~~ *Discipline*

3-6 *Probation and Status*

3-6.1 *Probationary Period*

(a) ~~New employee~~Employee without status. A newly appointed ~~classified~~ employee who ~~does not have~~lacks status in the classified service when appointed must satisfactorily complete a working test period, called a probationary period, and receive a ~~final~~ satisfactory probationary rating ~~as provided in rule 2-3 [Performance Ratings]~~at its end as a condition of continued employment.

(b) *Employee with status*. An employee with status who is appointed to a ~~new~~ classification where the employee does not have status must satisfactorily complete a working test period, called a probationary period, and receive a ~~final~~ satisfactory probationary rating ~~as provided in rule 2-3 [Performance Ratings]~~at its end as a condition of continued appointment in that position, unless otherwise provided in the regulations.

(c) *SES and SEMAS exceptions*. This rule does not apply to ~~persons appointed~~appointees to positions in the senior executive service (~~SES~~) and ~~the~~ senior executive management assistant service (~~SEMAS~~).

3-6.2 ~~Length of~~ Probationary Period Length

(a) *Minimum length*. ~~The minimum length of~~Unless a probationary appointment is terminated or rescinded, an appointing authority shall evaluate each probationary employee's performance and behavior and issue a probationary rating. The minimum probationary period is 12 ~~calendar~~ months

of full-time employment or 18 ~~calendar~~ months of less-than-full-time employment. An appointing authority may, however, issue an interim rating to a probationary employee anytime during a probationary period.

(1) Full-time. An appointing authority shall rate a full-time probationary employee after 6 and 12 months of employment. The appointing authority shall also rate a probationary new hire after 3 months.

(2) Not full-time. An appointing authority shall rate a probationary employee not working full-time after 9 and 18 months of employment. The appointing authority shall also rate a probationary new hire after 3 months.

(b) Extension ~~of probationary period.~~ If the appointing authority determines that (1) the probationary period has been insufficient to adequately test ~~the performance of~~ a probationary employee or (2) ~~the performance of~~ a probationary employee's performance and behavior have been unsatisfactory, the appointing authority may extend the probationary period ~~for an employee~~. Any extension beyond ~~an additional 6 calendar~~ a total of six months requires the director's approval of ~~the state personnel director~~. The appointing authority shall give written notice of ~~the any~~ extension ~~of the probationary period~~ to the employee. An extension cannot be grieved.

(c) Leave without pay during probationary period. Automatic extension. If a probationary an employee is ~~placed~~ suspended, on ~~an unpaid~~ leave of absence ~~without pay~~, or on extended sick leave, the ~~period of the leave of absence does not count toward completing the probationary period and the length of the~~ probationary period is automatically extended ~~for an additional~~ by a period equal to the ~~employee's~~ absence.

(d) Review. A supervisor or designee shall review each probationary rating with the employee. Both shall sign each rating as evidence of the review. An employee's signature does not indicate agreement. An employee may file an explanatory statement with a rating.

(e) Satisfactory rating. A satisfactory probationary rating is not discipline and is not grievable or reviewable.

(f) Unsatisfactory rating.

(1) Discipline. An unsatisfactory probationary rating is discipline and may be the basis for additional discipline, up to and including dismissal.

(2) Grievance. An employee may grieve a probationary rating only as provided in rule 3-6.4.

(3) Effects. An employee who receives an unsatisfactory rating is not eligible for a step increase, performance-pay award, or reclassification until a later satisfactory rating is issued. Any such action cannot be retroactive to a date before a new satisfactory rating is issued. The period under an unsatisfactory rating is not qualifying time for a step increase or reclassification.

(4) Record. The employee's employment record must reflect any unsatisfactory rating.

(g) Failure to issue. An appointing authority shall issue a probationary rating or extend the probationary period by 28 days after a rating period ends. If an appointing authority fails to timely issue a rating or an extension, the employee may request its issuance in writing to the appointing authority's human resources director. If the appointing authority fails to issue a rating or extend the probationary period within 28 days after receiving a valid written request, the employee is deemed to have received a satisfactory rating for the period.

3-6.3 Unsatisfactory Service

(a) **Employee without status.** If an employee without status does not perform satisfactorily during ~~the~~ probationary period, ~~as provided in rule 2-3 [Performance Ratings],~~ the appointing authority may issue an unsatisfactory rating and dismiss or otherwise discipline the employee anytime at any time during the probationary period or within 28 calendar days after the probationary period ends. ~~The appointing authority shall give notice of a dismissal or other discipline to the employee no later than 28 calendar days after the probationary period ends.~~

(b) **Employee with status.** If an employee with status is appointed to a new classification and does not perform satisfactorily during the probationary period, ~~as provided in rule 2-3 [Performance Ratings],~~ the appointing authority may, ~~at any time during the~~ issue an unsatisfactory probationary period or within 28 calendar days after the probationary period ends rating anytime and, (1) dismiss or otherwise discipline the employee or (2) rescind the appointment and demote the employee.

~~3-6.4 Satisfactory Service; Notice~~

~~If an employee's service during the probationary period is satisfactory, the appointing authority shall give notice to the employee and the civil service staff within 28 calendar days after the probationary period ends.~~

3-6.5 Grievance of Probationary Rating or Discipline

(a) **Probationary employee without status.** A probationary employee without status who is dismissed or otherwise disciplined ~~may~~ can only grieve ~~the discipline only~~ within the agency steps of the civil service grievance procedure. The employee cannot appeal ~~at~~ the appointing authority's final determination ~~of the appointing authority to civil service staff or the civil service commission,~~ unless the ~~employee alleges that the~~ discipline violated rule 1-8 ~~[Prohibited Discrimination]~~ or rule 2-10 ~~[Whistleblower Protection]~~.

(b) **Probationary ~~E~~mployee with status.**

(1) **Rescission ~~of appointment~~ and demotion.** ~~A~~ If an appointing authority demotes a probationary employee with status ~~(1) who receives an interim rating or unsatisfactory probationary or follow-up rating or (2) whose appointment is rescinded for any reason and who is demoted~~ to a classification level not less than ~~the level that~~ occupied at immediately before the probationary appointment, the ~~time of the appointment,~~ employee may can only grieve the ~~rating or the~~ rescission and demotion as provided in rule 8-1 ~~[Grievances]~~ ~~and the applicable regulations. In any appeal of its final grievance decision, the appointing authority need only.~~ The employee cannot appeal the appointing authority's final determination, unless the

~~discipline violated rule 1-8 or rule 2-10 establish a rational basis for the rating or the rescission and demotion. This subsection does not apply to the revocation of an appointment authorized in rule 3-7 [Revocation of Appointment].~~

- (2) **Other discipline.** A probationary employee with status who is dismissed or disciplined other than as provided in subsection (b)(1) may grieve the ~~rating or discipline as provided in rule 8-1 [Grievances] and the applicable regulations~~ discipline. The appointing authority must demonstrate just cause for the discipline in any appeal.

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3. Definitions

A. CSC Rule Definitions.

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- ~~21.~~ **Status** means the recognition of an employee who has been properly appraised, qualified, and appointed to the classified service and who has satisfactorily completed the probationary period in an indefinite or limited-term appointment.

B. Definitions in This Regulation.

1. **Competency** means the ability, skill, knowledge, and motivation needed for success on the job.

~~* * *~~ ~~62.~~ **Probationary period** means a working test period that every person appointed to a ~~new~~ classification in which the person lacks status must satisfactorily complete as a condition of continued employment, unless otherwise provided in this regulation.

~~* * *~~ ~~93.~~ **Supervisor**, ~~for the purpose of this regulation,~~ means the person ~~who has~~ with formal authority ~~for enforcing~~ to enforce directives and ~~ensuring~~ ensure satisfactory performance of subordinates. A supervisor may be immediately superior in the employee's chain of command or may be removed, but directly in the employee's chain of command.

4. Standards

A. General Standards.

1. ~~Performance management plans and performance ratings are required for all career employees in the classified service.~~
2. ~~All supervisory, managerial, administrative, and executive employees must have included in their performance management plan a factor or competency to establish a performance expectation for conducting timely and effective employee ratings.~~

~~B. Rating Forms.~~

~~1. Performance Management and Competency Rating forms used for (1) probationary ratings; (2) annual ratings for nonprobationary employees; and (3) progress reviews are listed below:~~

~~—Group 1 Employees: CS 1750~~

~~—Group 2 Employees: CS 1751~~

~~—Group 3 Managers: CS 1761~~

~~—Group 3 Supervisors: CS 1752~~

~~—Group 4/SES Employees: CS 1719~~

~~—An appointing authority may use an alternative rating form approved by the State Personnel Director until the agency begins using the on-line forms as provided in § B.2 below.~~

~~2. An on-line performance management form accessible through MI HR Self Service is to be used instead of the above-listed rating forms for all annual and probationary ratings. Each agency must have a plan approved by the State Personnel Director that addresses the timing of the transition of the agency's employees to the automated performance management system. Any exceptions must be approved by the State Personnel Director.~~

~~3. For purposes of this regulation, ratings of "Meets Expectations" and "High Performing" are equivalent to a satisfactory rating.~~

~~4. A separate interim rating form, Interim Employee Rating (CS 375), must be used for interim and follow-up ratings.~~

~~C. Probationary Ratings.~~**~~1. General Requirements.~~**

~~a. A nNew probationary periods are is required for in any one of the following circumstances: (1) hire; (2) promotion; (3) lateral job change between agencies to a different classification; (4) lateral job change of a probationary employee to the same classification in a different agency; or (5) lateral job change of a probationary employee to a different classification within the same agency. A probationary period is not required for Senior Executive Service (SES) and Senior Executive Management Assistant Service (SEMAS) employees in the same agency.~~

~~b2. A new probationary period is not required but may be established under any one of the following circumstances for: (1) reinstatement; (2) lateral job change to a different classification in the same agency; (3) demotion of an employee with status; or~~

- (4) lateral job change of a probationary employee to the same classification ~~within~~in the same agency.
3. A probationary period is not required for Senior Executive Service and Senior Executive Management Assistant Service employees.
 4. An online performance-management form accessible through MI HR Self-Service or NEOGOV is used for all probationary ratings, unless the director has approved an alternative method, including continued use of the paper CS-1750 (Group 1); CS-1751 (Group 2); CS-1761 (Group-3 Managers); CS-1752 (Group-3 Supervisors); and CS-1719 (Group 4/SES).

B. Probationary Ratings.

1. General Requirements.

- a. Each probationary rating must evaluate an employee's performance under established, measurable, and specific performance factors, objectives, and competencies, except Group-1 employees require only competencies. All supervisory, managerial, and executive employees must have in their performance-management plans a factor or competency establishing a performance expectation to conduct timely and effective employee ratings.
- b. The supervisor shall review the rating criteria with the employee at the start of each rating period. Modifications to performance factors, objectives, or competencies may be made anytime to reflect a change of assignments or expectations. The employee and supervisor must certify the review of the rating criteria initially and when any changes are made.
- c. Full-time probationary employees ~~shall~~must be reviewed ~~upon completion of~~after ~~6 months~~ and 12 months of service. Less-than-full-time probationary employees ~~shall~~must be reviewed ~~upon completion of~~after ~~9 months~~ and 18 months of service. New hires without status ~~shall~~must also be reviewed ~~upon completion of~~after 3 months of service.
- ~~d. An employee's probationary period will continue upon reclassification upward in a series only if the employee has not completed the probationary period before the effective date of the reclassification.~~
- ~~e. Probationary ratings should be completed by the supervisor within 28 calendar days of the end of the rating period.~~
- ~~f. The d.~~ A supervisor shall complete probationary ratings within 28 days after a rating period ends. A supervisor shall review an employee's performance during the period covered. The rating must address the employee's accomplishments in relation to established expectations and how the employee exceeded, met, or did not meet objectives identified in performance factors, objectives, or competencies.

- e. The employee, supervisor, and appointing authority must ~~sign and date, or electronically~~ certify, all probationary ratings. ~~The employee's certification does not indicate that the employee agrees with the rating. If necessary, the supervisor shall indicate an employee's refusal to sign a rating, including an online refusal override certification, if applicable.~~
- gf. An employee who disagrees with a probationary rating may ~~prepare and~~ submit a written statement to the appointing authority.
- g. An appointing authority may extend a probationary period in writing for up to six additional months total. Any additional extension requires the director's approval. An extension cannot be grieved.
- h. If the appointing authority ~~a written statement taking exception to the rating. Using~~ does not issue a rating or extend the probationary period by 28 days after the period's end, the ~~on-line form, an~~ employee may ~~enter an exception~~ request in writing to the ~~rating in~~ agency's human resources director that one be issued. If the ~~Employee Progress Review/Comments section~~ appointing authority does not issue a rating or extend the probationary period within 28 days after a request is received, the employee receives a satisfactory rating, effective the end of the rating period.
- hi. If an employee is suspended, on a leave of absence, or on extended sick leave, a probationary period is automatically extended by that period of time.
- j. The appointing authority must ensure entry of any probationary rating in the employee's HRMN record (ZP26.1) and proper updating of the Since-Step time-accrual plan (TA 60.1), when applicable.
- k. Satisfactory ratings are not ~~considered~~ discipline and are not grievable.
2. **Unsatisfactory Ratings.**
- a. An unsatisfactory probationary rating is ~~considered~~ discipline and is shall be conducted in accordance with rule 2-6.
- b. An ~~employee who receives an~~ unsatisfactory probationary rating must address specific performance or behavior problems. If an unsatisfactory rating is issued and the employee is not dismissed, the rating must also identify specific expectations for improvement during the remaining probationary period.
- c. An employee under an unsatisfactory probationary rating is not eligible for a step increase, a performance-pay award, or reclassification until a later satisfactory rating is issued.
- e. ~~If an employee has received an unsatisfactory probationary rating, the effective date of a A~~ step increase, performance-pay award, or reclassification ~~action~~ cannot be made retroactive to a date before a new satisfactory rating is issued, ~~nor is the~~

~~time the employee is~~ Time under an unsatisfactory probationary rating is not creditable toward ~~the time required for~~ reclassification.

- d. An ~~appointing authority may demote or dismiss~~ unsatisfactory probationary rating is grieved in accordance with rule 3-6.4 under regulation 8.01 for an employee ~~receiving~~ without status or under regulation 8.01 or an ~~unsatisfactory rating~~ applicable collective bargaining agreement for an employee with status.
- e. If an unsatisfactory rating is issued ~~at the~~ after 12-month point months (or 18 months if less-than-full-time) but the employee is not dismissed, the appointing authority must also extend the probationary period. The appointing authority must give notice of the extension to the employee and issue a final probationary rating ~~no later than~~ another extension by 28 calendar days after the ~~end of the~~ extended probationary period. ends. Extension of a probationary period beyond six total months requires the director's approval
- ef. If an employee with status is appointed to a new classification level and does not perform satisfactorily at the new level, the appointing authority may demote the employee to ~~the former~~ a classification level ~~at which the employee gained status not less than that held immediately before the probationary appointment~~ or dismiss the employee. ~~In the event that~~ If the appointing authority chooses demotion and ~~there is~~ has no vacant position at the former class and level, the employee may exercise employment preference in accordance with rule 2-5. The rescission of a probationary appointment of an employee with status is grieved under regulation 8.01.
- fg. The appointing authority ~~must enter any unsatisfactory probationary rating in the employee's HRMN record (ZP26.1) if the rating was not completed through the on-line system. Any subsequent satisfactory rating must also be entered on the ZP26.1~~ shall.

~~The appointing authority must~~ notify Civil Service of all unsatisfactory probationary ratings within 28 ~~calendar~~ days of the rating.

~~h. An unsatisfactory probationary rating may be grieved in accordance with the provisions of regulation 8.01 or applicable collective bargaining agreements.~~

~~D. Annual Ratings and Progress Reviews (Nonprobationary Employees).~~

~~E. Interim and Follow-up Ratings.~~

~~F. C. Audit and Compliance.~~

1. All ratings are subject to audit by Civil Service.
2. Probationary, ~~interim, and unsatisfactory~~ ratings must be maintained in the employee's ~~official~~ personnel file for ~~a period of~~ at least four years.

3. ~~Annual ratings must be maintained for a period of four years from the date of issuance. Annual Probationary~~ ratings completed on-line ~~will be~~ are stored ~~in HRMN~~ for at least ~~minimum of~~ four years ~~from the end of the rating period.~~

~~5. Procedures~~

CONTACT

Questions on this regulation may be directed to Compensation, Civil Service Commission, P.O. Box 30002, 400 South Pine Street, Lansing, Michigan 48909; by telephone at 517-241-0837 or 517-284-0102~~517-373-7618~~; or to MCSC-Compensation@mi.gov.